



Texas Conservative Coalition Research Institute
Illegal Immigration Task Force Report

State Approaches to Illegal Immigration

October 2006

PO Box 2659 -- Austin TX 78769 -- 512-474-6042 -- www.txccri.org



Acknowledgments

We would like to acknowledge the efforts of all those who have participated in the Texas Conservative Coalition Research Institute's State Approaches to Illegal Immigration Task Force. This document is the result of many months of research and discussion on the part of the task force members, their legislative staffs, and the TCCRI. We would like to thank all of the individuals and groups who have supported our work and come to meet with the task force over the past ten months. In particular, we thank our task force Chairman, Representative Linda Harper-Brown, as well as the other members of the task force, Representative Brian Hughes, Representative Bill Keffer, Representative Debbie Riddle, Representative Larry Taylor, and Representative Corbin Van Arsdale. We also thank Cari Christman, Jon English, Michele Moore, and Erin Sanders for their contributions to the task force, as well as John Colyandro, Brent Connett, and Tom Aldred for coordinating the task force and taking primary responsibility for authoring and editing this report.

The contents of this document do not represent an endorsement from any individual member of the Board of Directors of the Texas Conservative Coalition Research Institute, any individual member of the TCCRI Illegal Immigration Task Force. There may be some policy recommendations or statement of philosophy that individual members may be unable to support. We recognize and respect their position and greatly appreciate the work of everyone involved with the task force.

Table of Contents

Executive Summary	5
Summary of Recommendations	8
Part I: Voting, Citizenship, and Identity	12
Laws without Meaning	12
Opening the Door to Fraud	14
The Right to Vote	16
Proposals to Verify Citizenship	18
Recommendations	20
Answering Anticipated Objections	24
Conclusion	27
Part II: Denying Benefits to Illegal Immigrants	29
The Philosophy of Denying Benefits	31
Medicaid	33
TANF and Food Stamps	35
CHIP	36
Section 8 Housing Choice Voucher Program	37
Recommendations	38
Conclusion	43

Part III: Employer Sanctions	44
The Dynamics of Illegal Immigration	44
An Economic Benefit to America?	45
Exploring Employer Sanctions	47
Recommendations	48
Conclusion	49
Part IV: Ending Bilingual Education Programs	50
The Californian Experience: Proposition 227	50
Assimilation	51
The Benefits of Ending Bilingual Programs	52
Bilingual Education in Texas	53
The Cost of Bilingual Education	53
Enrollment of English-Speaking Students	54
Recommendations	55
Conclusion	55
Part V: Border Security and Local Law Enforcement	56
Appendix A: Texas Voter Registration Application	58
Appendix B: USCIS Civic Flash Card	59

Executive Summary

The domestic debate over illegal immigration is radicalized. Large-scale demonstrations in March and April 2006 were organized to oppose proposed criminal sanctions against migrants and those individuals and organizations, such as the Central American Resource Center, which aid them. Meanwhile grassroots organizations, such as the Minuteman Project, have formed to patrol the vast, unprotected desert regions of California, Arizona, New Mexico and Texas to prevent illegal border crossings. As one extreme seeks to fortify the entire US/Mexico international boundary to prevent more Mexicans from entering the United States, the other faction seeks blanket amnesty (and expedited citizenship) for all illegal aliens.

Regardless of party affiliation, income, or ethnicity, public attitudes on the issue have become increasingly intense, even hostile, toward immigrants (illegal and legal) in recent months. One poll found that 91 percent of people surveyed think the illegal or undocumented immigration situation in the United States today is a "very" serious (63 percent) or "somewhat" serious (28 percent) problem.¹ A USA Today/Gallup Poll found that nearly half of all Americans believe that the level of immigration to the United States should be "decreased" [down only slightly from the high water mark in the immediate aftermath of the terrorist attacks of on September 11, 2001] and that an overwhelming majority of people (81%) expressed the view that "illegal immigration to the United States is out of control."²

Specifically, the American public is concerned, by wide margins, that illegal immigrants "overburden government programs and services" (87%), "lead to an increase in crime" (75%) and "take jobs away from U.S. citizens" (66%).³ Remarkably, 66% of all those polled believe that illegal immigrants "lead to an increase in terrorism;"⁴ though several "9-11" terrorists entered the United States legally. However, in fiscal year 2005, 155,000 people "Other Than Mexicans" (OTMs) were apprehended along the southwest border of the United States. Some were from nations with active terrorist networks including Syria, Jordan, and Pakistan. So far in FY 2006, over 50,000 OTM's have been apprehended on the southwest border.⁵

The estimate of the number of illegal aliens in the United States varies. A generally accepted figure seems to be 11 million people.⁶ The figure is imprecise because of limitations of the enumeration process. The Immigration and Naturalization Service estimated, based on the 2000 Census, that 7 million "unauthorized immigrants resided in the United States as of January 2000" identifying "Mexico as the largest source country for

¹ Opinion Dynamics Corporation conducted the national telephone poll of 900 registered voters for FOX News on April 25-26.

² USA Today/Gallup Poll. April 7-9, 2006. N=1,004 adults nationwide. MoE \pm 3.

³ FOX News/Opinion Dynamics Poll. April 4-5, 2006. N=900 registered voters nationwide. MoE \pm 3.

⁴ *Ibid*

⁵ Office of Congressman Lamar Smith.

⁶ "Not criminal, just hopeful," The Economist, Global Agenda, April 13th, 2006

unauthorized immigration to the United States.”⁷ The INS also reported that “Mexico’s share of the total unauthorized resident population increased from 58 percent in 1990 to 69 percent in 2000.”⁸

That the number is large and growing seems beyond dispute, but the question that is infrequently asked is what are Mexican nationals running from and what are they running to? The short answers to those questions are these: they are running from extreme poverty to the promise of higher wages and public benefits. They flee for a legitimate purpose – a better life – and are, for the most part, willing to work to achieve that goal when they get here. Indeed, these are the people that we should be all too happy to welcome to our country. The problem is that regardless of their character, or the risks that they are prepared to take to get here, illegal immigrants are *illegal*. They know perfectly well there is a process in place which requires them to apply for entry into the United States. Scenes of Mexican nationals and other Latin Americans scaling walls, wading rivers, traversing deserts, and stealing a ride in tractor-trailers are all tragic and depressing. But talk of amnesty and “paths to citizenship” is falderal. There are plenty of people who come to the United States legally every year, having completed an arduous, bureaucratic, and expensive process. Those who fail to live up to the bargain – to legally gain entry into our country and learn our language – degrades the value of citizenship and undercuts the rule of law: a disruption that all too many people in the private sector are too willing to aid and abet.

The acknowledgement that Texas invites illegal immigration through lax enforcement of the citizenship requirements to enroll in public benefit programs, abundant employment opportunities for illegal immigrants, a public school system that will teach students entirely in Spanish, and the presence of active political movements that advocate for and on behalf of illegal immigrants (to name but a few of the factors), is the basis upon which *effective* immigration reform should be based.

The Texas Conservative Coalition Research Institute’s Illegal Immigration Task Force began its work with the objective of offering practical policy solutions that address the incentives that draw immigrants to Texas illegally. To this end, the TCCRI’s Illegal Immigration Task Force has focused its work in four key areas:

- Voter identification;
- Access to state and federal welfare programs;
- Employer sanctions; and,
- Bilingual education in public schools.

By laying out the fundamental problems in each of these areas, the Task Force is able to offer lawmakers not only a map for evaluating these issues, but also specific legislative recommendations to address illegal immigration in Texas. Despite the fact that federal regulations govern immigration policy, there are clearly many policy options at the state level that can provide solutions to the problems posed by illegal immigration. For border

⁷ <http://www.uscis.gov/graphics/shared/aboutus/statistics/2000ExecSumm.pdf>

⁸ *Ibid*

states, such as Texas, this acknowledgement must drive legislators to enact meaningful reforms that will reduce illegal immigration and will give state agencies and officials the tools they need to effectively enforce both state and federal regulations.

Executive Summary of Recommendations

1). Voting, Citizenship, and Identity

a). Place Citizenship Status on Driver's Licenses and Texas Identification Cards

- Amend Transportation Code, Chapter 521, by adding "citizenship status" as a feature that a Driver's License must include.
- Amend Transportation Code, Chapter 521, Subchapter R, to provide Driver's License and Texas Identification Card fee waivers for the indigent.

b). Require Voters to Present a Driver's License or Texas Identification Card at their Polling Place

- Amend Election Code §63.001(b) so that, on offering to vote, a voter must present the voter's voter registration certificate *and* a valid, unexpired Texas Driver's License or a valid, unexpired Texas Identification Card that proves the voter is a United States citizen.

c). Secure Applications for Early Voting Ballots-by-Mail

- Amend Election Code §84.002 by adding the requirement that an application for an early voting ballot include the applicant's telephone number and either a Driver's License number or Texas Identification Card number.

d). Cross-Check Voter Rolls against Death Records

- Amend Election Code §18.061 by adding subsection (f) to require the Secretary of State to conduct a semi-annual cross-check of the statewide computerized voter registration list against death records maintained by the Department of State Health Services.

e). Allow Responses to Jury Summons to Immediately Disqualify Voters

- Amend Election Code §16.0332 so that the voter registrar shall immediately cancel a voter's registration upon receipt of a returned jury summons that lists non-citizenship as an excuse.

f). Increase Funding to the Attorney General to Investigate Election Fraud

- The Special Investigations Unit (SIU) in the Office of the Attorney General currently assists local officials in investigating and prosecuting election fraud. The Legislature should appropriate funds to the SIU for the investigation and prosecution of illegal votes cast by non-citizens.

g). Prohibit State Agencies from Accepting Matricula Consular Cards as Evidence of Identity

- Amend Transportation Code §521.142 and add Chapter 2057 to the Government Code so that no state agency in Texas is permitted to accept a Matricula Consular card as evidence of a person's identity, a person's immigration status, or as a secondary or supporting proof of a person's identity.

2). Denial of Benefits

a). Restrict Birthright Citizenship by Passing a Resolution in Support of H.J.R. 46

- H.J.R. 46, by Congressman Ron Paul (R-TX), proposes an amendment to the Constitution that declares:

“Any person born after the date of the ratification of this article to a mother and father, neither of whom is a citizen of the United States nor a person who owes permanent allegiance to the United States, shall not be a citizen of the United States or of any State solely by reason of birth in the United States.”

b). Base Eligibility for the CHIP Prenatal Care Program on the Immigration Status of At Least One of the Child's Parents

The 2006-2007 General Appropriations Act (Article II, Rider 70) utilized a provision made by the Centers for Medicare and Medicaid Services, allowing states to provide CHIP benefits to unborn children.

In Texas, the eligibility for the subsequently-created CHIP Prenatal Care Program should be restricted to the unborn children of U.S. citizens or legal residents.

c). Require Disclosure of Citizenship When a Child Enrolls at a Public School

- Amend the Texas Education Code (Section 25.002) so that disclosure of a child's residency status is required at the time of enrollment in a public school.

d). Revise the “Emergency Medical Care” provision in EMTALA

- Pass a resolution supporting the re-definition of “Emergency Medical Care” in the Emergency Medical Treatment and Labor Act of 1986 (EMTALA), so that only the rarest births which genuinely pose a threat to the life of the mother or child are handled in emergency rooms.

e). Deny Illegal Immigrants Access to Punitive Damages

- Amend Texas Civil Practices and Remedies Code (Chapter 41) so that illegal immigrants cannot receive punitive damage in civil lawsuits.

f). Impose a Fee on Remittances Sent to Mexico or Central or South America

- Add Chapter 279 to the Finance Code to impose an 8% fee on each transmission of money from Texas to a destination in Mexico or in Central or South America.

g). Repeal In-State Tuition for Illegal Immigrants

- Education Code (Section 54.052) should be amended so that in order to qualify for in-state tuition, an individual must be either a U.S. citizen, or a legal resident, who meets the other existing criteria under Chapter 54 of the Education Code.

3). Employer Sanctions

a). Penalize Employers Found to be Knowingly Employing Illegal Immigrants

- Insert a Chapter in the Labor Code that details a monetary penalty, equal to the amount that was paid by the employer to illegal immigrants during the financial year, to be paid to the state by any business found to be employing one or more illegal immigrants.
- Amend Chapter 62 of the Labor Code so that the act of paying wages or any other compensation constitutes an admission by the employer that they have confirmed that the employee is authorized to work in the U.S.
- Amend the gross margins tax created by House Bill 3(79S3) to include an additional tax penalty equal to ten percent of their tax liability for each undocumented employee a company is found to be employing.
- End property tax exemptions for any business or individual found to be employing “unauthorized aliens.”
- Prohibit any business that is found to have employed “unauthorized aliens” for three out of any five years from conducting business in the state for a period of six months.

b). Require Employers to Attest that they have not Employed Illegal Immigrants

- Certificates of formation for all businesses filing with the Secretary of State should be accompanied by an affidavit stating that the company will not hire “unauthorized aliens.”
- Amend the gross margins tax created by House Bill 3(79S3) so that each taxable entity is required to declare that it employed no “unauthorized aliens” when submitting its reports to the Comptroller for each tax year.

4. Bilingual Education

a). Remove the Bilingual Education Mandate in the Education Code

- Amend §29.053 of the Education Code so that school districts are no longer mandated to offer bilingual education or a special language program to their limited English proficiency students.

b). Exclude English-Speaking Students from Bilingual Programs

- Remove §29.058 of the Education Code so that students who do not have “limited English proficiency” are no longer permitted to participate in bilingual education programs.

5. Border Security and Local Law Enforcement

a). Increase Funding for Border Security

- Border sheriffs should be provided with increased funding and resources. State-led initiatives such as Operation Laredo have decreased border crime by at least 65% in border counties.

b). Enable Local Law Enforcement to Detain Illegal Immigrants

- A resolution supporting the passage of House Resolution 6095 through the United States Congress should be passed. H.R. 6095 affirms that local law enforcement officials have the inherent authority to arrest and detain aliens in order to assist in the enforcement of federal immigration laws.

c). End Sanctuary Cities

- House Amendment 1139 (by Congressman John Culberson [TX-7]) to House Resolution 5672 blocks federal law enforcement funding for cities and counties that have adopted “sanctuary policies.” A resolution in support of House Amendment 1139 is recommended.